

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

H. LUNDBECK A/S, TAKEDA)	
PHARMACEUTICAL COMPANY LTD.,)	
TAKEDA PHARMACEUTICALS U.S.A.,)	
INC., TAKEDA PHARMACEUTICALS)	
INTERNATIONAL AG, and TAKEDA)	
PHARMACEUTICALS AMERICA, INC.,)	
)	C.A. No. 18-88 (LPS)
Plaintiffs,)	CONSOLIDATED
)	
v.)	REDACTED - PUBLIC VERSION
)	
ALKEM LABORATORIES LTD., et al.)	
)	
Defendants.)	

**PLAINTIFFS' RESPONSE (NON-OPPOSITION)
TO SANDOZ'S MOTION TO DISMISS
CLAIMS RELATED TO U.S. PATENT NO. 9,125,910 WITHOUT PREJUDICE**

Although Plaintiffs H. Lundbeck A/S, Takeda Pharmaceutical Company Ltd., Takeda Pharmaceuticals U.S.A., Inc., Takeda Pharmaceuticals International AG, and Takeda Pharmaceuticals America, Inc. (collectively, "Plaintiffs"), do not agree with the arguments Sandoz Inc. and Lek Pharmaceuticals d.d. (collectively, "Sandoz"), make in support of their motion to dismiss (D.I. 908, 909), Plaintiffs do not oppose Sandoz's request that the Court dismiss Counts V and VI of Plaintiffs' Third Amended Complaint Against Sandoz (D.I. 809) and Sandoz, Inc.'s Ninth and Tenth Counterclaims (D.I. 845) without prejudice.¹

Plaintiffs respectfully request that the order of dismissal require Sandoz to notify Plaintiffs upon Sandoz changing its Paragraph III certification for the '910 Patent to a

¹ Plaintiffs have raised with Sandoz a dispute regarding late-disclosed opinions regarding U.S. Patent No. 9,125,910 (the "'910 Patent") provided by Sandoz's expert, Dr. Jonathan Steed. Dismissal of Counts V and VI of Plaintiffs' Third Amended Complaint and Sandoz Inc.'s Ninth and Tenth Counterclaims would moot this dispute. If, however, those claims are not dismissed, Plaintiffs are not waiving their position or the opportunity to move to strike these opinions.

Section viii statement, as Plaintiffs will not otherwise have notice of such a change as they would with a conversion from a Paragraph III certification to a Paragraph IV certification.

For avoidance of doubt, Plaintiffs' position with respect to Sandoz's motion (D.I. 908) does not impact Plaintiffs' claims against any other defendant in this consolidated action with respect to infringement of the '910 Patent.

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/s/ Megan E. Dellinger

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September 2, 2020

CERTIFICATE OF SERVICE

I hereby certify that on September 9, 2020, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on September 9, 2020, upon the following in the manner indicated:

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